

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKMiguel Hernandez

Write the full name of each plaintiff.

CV  
(Include case number if one has been assigned)

-against-

MANHATTAN detention Complex administration  
Captain Rachel Morgan #1867

Do you want a jury trial?

☒ Yes ☐ No

Write the full name of each defendant. The names listed above must be identical to those contained in Section I.

## EMPLOYMENT DISCRIMINATION COMPLAINT

## NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

**I. PARTIES****A. Plaintiff Information**

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

Miguel HERNANDEZ  
 First Name Middle Initial Last Name  
1954 UNIONPORT RD. Apt. 3R  
 Street Address  
BRONX NY 10462  
 County, City State Zip Code  
917-769-5644 ANGELNEUTRALL11@YAHOO.COM  
 Telephone Number Email Address (if available)

**B. Defendant Information**

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. (Proper defendants under employment discrimination statutes are usually employers, labor organizations, or employment agencies.) Attach additional pages if needed.

Defendant 1: MANHATTAN DETENTION COMPLEX ADMINISTRATION  
 Name  
125 White st.  
 Address where defendant may be served  
NEW YORK NY 10013  
 County, City State Zip Code  
 Defendant 2: CAPTAIN RACHEL MORGAN #1867  
 Name  
125 White st.  
 Address where defendant may be served  
NEW YORK NY 10013  
 County, City State Zip Code

Defendant 3:

Name

NONE

Address where defendant may be served

County, City

State

Zip Code

**II. PLACE OF EMPLOYMENT**

The address at which I was employed or sought employment by the defendant(s) is:

Name

NYC DEPARTMENT OF CORRECTION MANHATTAN DETENTION COMPLEX

Address

125 White st.

County, City

NEW YORK

State

NY

Zip Code

10013**III. CAUSE OF ACTION****A. Federal Claims**

This employment discrimination lawsuit is brought under (check only the options below that apply in your case):

- ☒ **Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17, for employment discrimination on the basis of race, color, religion, sex, or national origin**

The defendant discriminated against me because of my (check only those that apply and explain):

☒ race:HISPANIC☐ color:☐ religion:☒ sex:38 year old MALE☐ national origin:

- ☐ **42 U.S.C. § 1981**, for intentional employment discrimination on the basis of race

My race is: \_\_\_\_\_

- ☐ **Age Discrimination in Employment Act of 1967**, 29 U.S.C. §§ 621 to 634, for employment discrimination on the basis of age (40 or older)

I was born in the year: \_\_\_\_\_

- ☐ **Rehabilitation Act of 1973**, 29 U.S.C. §§ 701 to 796, for employment discrimination on the basis of a disability by an employer that constitutes a program or activity receiving federal financial assistance

My disability or perceived disability is: \_\_\_\_\_

- ☐ **Americans with Disabilities Act of 1990**, 42 U.S.C. §§ 12101 to 12213, for employment discrimination on the basis of a disability

My disability or perceived disability is: \_\_\_\_\_

- ☐ **Family and Medical Leave Act of 1993**, 29 U.S.C. §§ 2601 to 2654, for employment discrimination on the basis of leave for qualified medical or family reasons

**B. Other Claims**

In addition to my federal claims listed above, I assert claims under:

- ☐ **New York State Human Rights Law**, N.Y. Exec. Law §§ 290 to 297, for employment discrimination on the basis of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status
- ☐ **New York City Human Rights Law**, N.Y. City Admin. Code §§ 8-101 to 131, for employment discrimination on the basis of actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status
- ☐ Other (may include other relevant federal, state, city, or county law):

\_\_\_\_\_

#### IV. STATEMENT OF CLAIM

##### A. Adverse Employment Action

The defendant or defendants in this case took the following adverse employment actions against me (check only those that apply):

- ☐ did not hire me
- ☐ terminated my employment
- ☐ did not promote me
- ☐ did not accommodate my disability
- ☒ provided me with terms and conditions of employment different from those of similar employees
- ☒ retaliated against me
- ☒ harassed me or created a hostile work environment
- ☐ other (specify): \_\_\_\_\_

##### B. Facts

State here the facts that support your claim. Attach additional pages if needed. You should explain what actions defendants took (or failed to take) *because of* your protected characteristic, such as your race, disability, age, or religion. Include times and locations, if possible. State whether defendants are continuing to commit these acts against you.

*See attached.*

As additional support for your claim, you may attach any charge of discrimination that you filed with the U.S. Equal Employment Opportunity Commission, the New York State Division of Human Rights, the New York City Commission on Human Rights, or any other government agency.

**V. ADMINISTRATIVE PROCEDURES**

For most claims under the federal employment discrimination statutes, before filing a lawsuit, you must first file a charge with the U.S. Equal Employment Opportunity Commission (EEOC) and receive a Notice of Right to Sue.

Did you file a charge of discrimination against the defendant(s) with the EEOC or any other government agency?

☒ Yes (Please attach a copy of the charge to this complaint.)

When did you file your charge? THURSDAY FEBRUARY 8, 2018

☐ No

Have you received a Notice of Right to Sue from the EEOC?

☒ Yes (Please attach a copy of the Notice of Right to Sue.)

What is the date on the Notice? MARCH 30, 2018

When did you receive the Notice? TUESDAY APRIL 3, 2018

☐ No

**VI. RELIEF**

The relief I want the court to order is (check only those that apply):

- ☐ direct the defendant to hire me
- ☐ direct the defendant to re-employ me
- ☐ direct the defendant to promote me
- ☐ direct the defendant to reasonably accommodate my religion
- ☐ direct the defendant to reasonably accommodate my disability
- ☐ direct the defendant to (specify) (if you believe you are entitled to money damages, explain that here)

100,000 DOLLARS FOR THE SUFFERING AND PAIN OF BEING TREATED DIFFERENTLY FROM OTHER OFFICERS, BEING SWITCHED FROM JOB ASSIGNMENTS FOR NO REASON AND CONSTANTLY WORKING IN THE WORSE AREAS JUST FOR BEING A MALE OFFICER.

**VII. PLAINTIFF'S CERTIFICATION**

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

6/28/18  
 Dated  
Miguel  
 First Name  
1954 UNIONPORT RD Apt. 3R  
 Street Address  
BRONX, BRONX  
 County, City  
NY  
 State  
10462  
 Zip Code  
917-769-5644  
 Telephone Number  
Angel Neutral II@yahoo.com  
 Email Address (if available)

I have read the attached Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☐ Yes ☐ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.

- ① PLAINTIFF Miguel Hernandez is a 38 year old MALE. He is a CORRECTIONS OFFICER with the New York City Department of Corrections.
- ② PLAINTIFF has been working with (NYCDOC) since June 2008.
- ③ PLAINTIFF was assigned to the Manhattan Detention Complex in April 2013.
- ④ On May 19<sup>th</sup>, 2018 the PLAINTIFF was assigned to 7 control. Captain WINICK #1055 sent officer LIU #18592 who was on medical monitored status at the time to relieve the PLAINTIFF from his post to go to 6 East housing unit holding some of the facility's most dangerous inmates. Officer LIU #18592 was already working on a medical monitored post 10 security control but was relieved by officer TAN, Y #13407 who was full duty, six months on the job and working overtime on said post.
- ⑤ One of PLAINTIFF's supervisors is Captain Rachel Morgan #1867.
- ⑥ Captain Rachel Morgan #1867 has repeatedly treated PLAINTIFF differently from other D.O.C employees because he is a male.



7- ON November 7<sup>th</sup>, 2017 the Plaintiff went under surgery on an inmate related incident. The locker that the Plaintiff had for 5 years where he kept his uniforms and departmental issued items such hat piece and others was clipped away without my consent. Those items were placed in a garbage bag. The Plaintiff's Locker was given to a newly assigned officer. According to different sources Captain Rachel Morgan # 1867 was the supervisor assigned to provide lockers to the newly assigned officers. The Plaintiff haven't received a replacement locker until this date.

8- ON April 29<sup>th</sup>, 2017 Plaintiff arrived late to his shift. When he presented Captain Rachel Morgan # 1867 with a late slip, Captain Morgan informed him he was being reassigned from his schedule post on clinic patrol to 6 East a housing unit holding some of the facility's most dangerous inmates.

9- When Plaintiff asked why his shift assignment was being changed Captain Morgan told him it was because he was late. However, Plaintiff was and is aware that

9- the protocol for post changes requires that an officer superior to a captain needs to make the change in writing. Plaintiff pointed this out to Captain Morgan and told her he intended to report to his scheduled post. Captain Rachel Morgan # 1867 became irate. She screamed at Plaintiff, taunting him and saying "officer Hernandez I am going to help you go to your clinic post because you are scared. You are scared, officer Hernandez, right?". Captain Morgan made these taunts in front of Assistant Deputy Warden Nelson and three other officers.

10- Plaintiff reported to his clinic post only to find that a female officer had been told to replace him.

11- On January 9th, 2017 the Plaintiff volunteered to work overtime at 10 west post, but was told to go and hold down a different post 8 East which holds some of the facility's most dangerous inmates for about one hour until officer Charles which is a female, arrived to the facility since she was running late. It was confirmed by an officer →

(11-) That officer Charles was in the facility at Roll Call and that she was simply placed in a better and safer work environment at 8 control. The Plaintiff contacted over the phone control room Captain Santiago and she said the change was done on the previous tour.

(12-) On April 14<sup>th</sup>, 2017 Plaintiff requested in writing to be re-qualified on chemical agents for the safety of the inmates under his care and his own. Plaintiff is no chemical agents qualified until this date.

(12-) On December 27<sup>th</sup>, 2016 Plaintiff was assigned to 5 control post, but on arrival to the facility, was told by Captain Rachel Morgan #1867 that he was reassigned to work 5 North housing unit holding some of the facility's most dangerous inmates. When the plaintiff reported to 5 North noticed a female officer was placed at 5 control. No explanation was given as per why the changed.

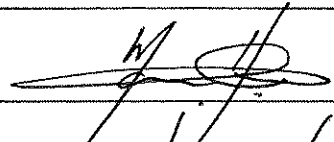
(14-) On September 26<sup>th</sup>, 2016 Plaintiff applied for about 14 job assignments posted by the administration,

(14-) but the administration gave these post away to officers less qualified and less time on the job than the Plaintiff. There are four factors to be consider for a post, seniority, Attendance, Performance and skills. A probationary officer should not be consider for a post over a veteran officer.

(15-) On September 30<sup>th</sup>, 2014 Plaintiff requested in writing to the administration to be moved from housing unit 5 West since the plaintiff was placed there without his consent for over 2 years. 5 West was one of the worse housing unit at the time. Plaintiff was told by officer Quintana responsible for making the schedule that I was placed there because "Plaintiff was a big guy and that Plaintiff won't go anywhere but there".

(16-) Throughout his five years at the Manhattan Detention Complex, Plaintiff has observed other employees moving on different job assignments. However, despite his seniority, Attendance, skills and Performance,

16- Plaintiff has been denied transfers and better job assignments. The administration is protecting newly assigned officers whom just graduated from the academy by giving them job assignments at the courts because the administration don't want them to "quit".

  
6/28/18